

BEFORE THE  
POLLUTION CONTROL HEARINGS BOARD  
STATE OF WASHINGTON

IN THE MATTER OF )  
WESCOT COMPANY, )  
 )  
Appellant, )  
 )  
vs. )  
 )  
PUGET SOUND AIR POLLUTION )  
CONTROL AGENCY, )  
 )  
Respondent. )  
\_\_\_\_\_ )

PCHB No. 123  
PROPOSED  
FINDINGS OF FACT,  
CONCLUSIONS AND ORDER

This matter, the appeal of a \$250 civil penalty invoked for an alleged violation of Section 9.02(b) of respondent's Regulation I, came before the Pollution Control Hearings Board (Walt Woodward, hearing officer) at a hearing in the Seattle offices of respondent at 10:00 a.m., June 26, 1972.

Appellant was represented by its president, Henry Hopkins. Respondent appeared through its counsel, Keith D. McGoffin. Louise Blakeley, a Seattle court reporter, recorded the proceedings.

The proceedings became a formal hearing after respondent said it

saw no compromise settlement of the matter. Witnesses were sworn and testified. Exhibits were admitted.

On the basis of a review of the transcript and examination of exhibits, the Pollution Control Hearings Board makes these

#### PROPOSED FINDINGS OF FACT

##### I.

Appellant is a contractor-engineering firm employing about 200 persons. In the course of its work it frequently requires and obtains natural vegetation burning permits from respondent and, therefore, is aware of the Agency's outdoor fire regulations. In the past it has received a few Notices of Violation of Regulation I, but its president says the company policy is one of compliance with Regulation I and company employees are instructed to cooperate with this policy of compliance.

##### II.

On April 24, 1972, at its maintenance shop in Puyallup, Pierce County, appellant burned office refuse, waste lumber and oil filters in an outdoor fire. An inspector of respondent was called to the site on complaint of a fire district official.

##### III.

The burning was done by a new employee of appellant who apparently had not been made aware of respondent's outdoor burning regulations.

##### IV.

Appellant did not possess a valid burning permit for the site and date of the instant fire.

From these Proposed Findings of Fact, the Pollution Control Hearings Board comes to these

## PROPOSED CONCLUSIONS

### I.

For at least two reasons, appellant was in violation of Section 9.02(b) of respondent's Regulation I. Appellant did not hold a valid burning permit for the fire at the site. The fire contained oil filters which are specifically banned in all outdoor burning permits issued by respondent.

### II.

The only question of doubt raised in this matter is whether the maximum allowable penalty of \$250 invoked in this matter is reasonable. The Pollution Control Hearings Board accepts the desire of the president of the company to be in compliance with Regulation I; it can also appreciate the difficulty of obtaining the cooperation of 200 employees in such a policy of compliance. However, respondent cannot be expected to be limited by good intentions in its efforts to enforce clean air regulations. Neither can it be asked to overlook prior Notices of Violation, appellant's long association with outdoor fire permit regulations and, especially the prohibition in those regulations against burning smoke-inducing filters.

On the basis of these Proposed Conclusions the Pollution Control Hearings Board issues this

## PROPOSED ORDER

The appeal is denied and the civil penalty of \$250 is sustained.

DONE at Blythe, Washington this 5th day of July,  
1972.

POLLUTION CONTROL HEARINGS BOARD

*Matthew W. Hill*

MATTHEW W. HILL, Chairman

*Walt Woodward*

WALT WOODWARD, Member

*James T. Sheehy*

JAMES T. SHEEHY, Member

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